



Order Filed on December 27, 2019
by Clerk
U.S. Bankruptcy Court
District of New Jersey

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

ATKINSON & DEBARTOLO, P.C
The Galleria, 2 Bridge Avenue, P.O. Box 8415
Red Bank, New Jersey 07701
BA 9186
Attorney for: Trustee Bunce D. Atkinson

IN RE:

CYNTHIA P. HORTA,

Debtor.

Case No. 18-23600/CMG

Hearing Date: 12/18/2019 @ 9:00 a.m.

Judge: Honorable Christine M. Gravelle

**ORDER APPROVING CONTRACT OF SALE, TO SELL PROPERTY FREE
AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES, WITH LIENS, CLAIMS
AND ENCUMBRANCES TO ATTACH TO PROCEEDS, AND AUTHORIZE
DISTRIBUTIONS AT CLOSING**

The relief set forth on the following pages, numbered two (2) through five (5) is hereby
ORDERED.

DATED: December 27, 2019

A handwritten signature in cursive script, reading "Christine M. Gravelle".

Honorable Christine M. Gravelle
United States Bankruptcy Judge

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THIS MATTER having been brought before the Court by Atkinson & DeBartolo, P.C., attorneys for the Debtor, Cynthia P. Horta, Bunce D. Atkinson, Esq. appearing on Notice of Motion seeking to approve a Contract of Sale of the Debtor's real property free and clear of liens, with liens to attach to proceeds, and authorizing the Closing Agent to make distributions at the time of closing, and notice having been provided to Albert Russo Esq. , the Chapter 13 Trustee, the Office of the United States Trustee, Powers Kern, LLC, the attorneys for the secured creditor Bank of America N.A., and to all parties as set forth in the Certification of Service, and limited objections having been filed by the Chapter 13 Trustee and on behalf of Bank of America, N.A. the holder of the second mortgage, and the limited objections having been resolved, and the Court having considered the pleadings filed herein, and for good cause shown, It is **ORDERED** as follows:

1. The Contract of Sale between Cynthia P. Horta, Seller, and Joseph Gellman and Brittany Gazzanigo collectively referred to as the Buyer, for the property located at 34 Bryce Canyon Road, Howell, New Jersey a/k/a Block 42, Lot 79.17 on the Tax Map of Howell Township, for the sum of \$395,000.00 be and hereby is approved.
2. The Closing Agent at the time of the closing shall pay the balance due and owing on the first mortgage held by Capital One, N.A. upon receipt of a payoff statement from Capital One, N.A.

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3. At the time of closing, the Closing Agent shall pay to the Bank of America, N.A., on account of its mortgage lien the balance due and owing, including the pre-petition arrears. Bank of America N.A. shall provide the attorneys for the Debtor with a detailed statement of amount due within five (5) business days of the entry of this Order, and shall provide a payoff statement for the mortgage loan.
 4. Bank of America, N.A. is to be paid in full pursuant to an updated payoff to be ordered before the close of escrow; and Bank of America N.A. shall receive funds with 48 hours of closing. Bank of America shall provide wire transfer instructions for use by the Closing Agent.
 5. At the closing, the Closing Agent shall pay RE/Max First Advantage its real estate commission of 5% of the sale price in accordance with the terms of the listing agreement, and the Application to Appoint Broker. The real broker is authorized to split the commission between the selling and listing brokers. The real estate broker is not required to file a separate Fee Application for its commission.
 6. From the closing proceeds after payment of the two mortgages aforesaid, regular closing costs and adjustments including but not limited to any real estate taxes, recording fees, and realty transfer taxes, and the real estate broker commission, the Closing Agent shall pay to Cynthia P. Horta, the sum of \$23,675.00 representing her exemption in the real property.

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7. From the remaining sale proceeds, after the payment of the two mortgages, regular closing costs and adjustments, the real estate commission and the Debtor's \$23,675 exemption, the Closing Agent shall turnover to Albert Russo, the Chapter 13 Trustee \$10,000 representing the approximate Plan balance. If the amount available for turnover is less than \$10,000, the entire amount available shall be turned over to the Chapter 13 Trustee for funding of the Debtor's Confirmed Plan.
 8. Any remaining balance following the turnover of \$10,000 to the Chapter 13 Trustee shall be delivered by the Closing Agent to the Atkinson & DeBartolo, P.C. attorney trust account.
 9. The Chapter 13 Trustee shall provide to Debtor's attorneys, Atkinson & DeBartolo, P.C., with a statement of the amount necessary to complete the Debtor's Plan. Any balance remaining from the \$10,000 after completion of the Chapter 13 Plan payments shall be returned to the debtor by sending a check to Atkinson & DeBartolo, P.C to deposit in its Attorney Trust Account
 10. Within 10 days following the Closing, the Closing Agent or Atkinson and DeBartolo, P.C. as the attorneys for the Debtor shall provide the Chapter 13 Trustee with a copy of the HUD-1 Closing Statement.
 11. Any attorney fees and costs as may be ordered by the Court following the filing of a fee application filed Atkinson & DeBartolo, P.C. shall be paid outside the Debtor's Confirmed Plan. Atkinson & DeBartolo, P.C. shall be authorized to pay any Court

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awarded fees and costs from the amount held in trust by it pursuant to this Order without further order of the Court.

12. The sale of the property is free and clear of all liens, claims, and encumbrances, with liens, claims and encumbrances to attach to proceeds. The sale is specifically free and clear of the mortgage dated April 19, 2005, recorded June 15, 2005 in Book OR-8469 at Page 7272nc in the Office of the Monmouth County Clerk, as Instrument No. 2005-093192, which mortgage was voided and discharged by Order of the United States Bankruptcy Court dated October 15, 2019.